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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,115	10/19/2001	Melissa J. DeVolentine	44810-0001	6324

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EXAMINER

NEWHOUSE, NATHAN JEFFREY

ART UNIT PAPER NUMBER

3727

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/042,115

Applicant(s)

DEVOLENTINE ET AL.

Examiner

Nathan J. Newhouse

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,7,14-16,18,20-23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7,14-16,18,20-23 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "directional fastener" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The amendment filed August 22, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the selectively releasable closure element is a directional fastener. Furthermore, there is no support in the original disclosure for what a "directional fastener" comprises.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 7, 14-16, 18, 20-23 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not contain an adequate written description of the "directional fastener". On page 7, added in the amendment of Aug. 22, 2003, the specification states that the "directional fastener" could be a curtain fastener or a locking snap. There are many different curtain fasteners and locking snaps and therefore this statement offers no clarity as to the structure of these fasteners. Furthermore, it is unclear what "predetermined motion" is required to disengage the "directional fasteners" as applicant merely sets forth that a "predetermined motion" is required but fails to describe what particular motion is necessary for disengagement.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1, 7, 14-16, 18, 20-23 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are rejected as the term "directional fastener" is vague and indefinite. It is unclear what this term encompasses. See the above paragraph. Furthermore, it is

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unclear what “predetermined motion” is required to disengage the “directional fasteners”. For the purposes of formulating a rejection on the merits, these fasteners are considered to be a “locking snap fastener” as this appears to be applicant’s intent and the “predetermined motion” is simply pulling the two portions of the fasteners apart.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 7, 14-16, 18, 20-23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagner (US 5,230,452).

Wagner teaches a belt (11) having a first portion of the releasable closure element(fastener) that are male members (14, 15) to engage with a second portion of the releasable closure element that are female members (19, 20) on various different containers (16, 16a, 34, 42, 46) to hold the containers to the belt in any desired location on the belt. To the degree that applicant’s claims are understood with respect to “directional fastener”, the releasable closure element (14, 15, 19, 20) are locking snap fasteners and the “predetermined motion” that is required to separate the portions of the fasteners is a pulling motion.

With respect to claim 7, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose

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any patentably distinguishing structure over that disclosed by Wagner which is capable of being used in the intended manner, i.e., to hold any desired article including cell phones, paper, pagers, pens, pencils, money, keys, etc. (see M.P.E.P. 2111).

With respect to claims 14-16, Wagner teaches closure flaps (41, 43, 47) to close selective containers.

With respect to claims 18 and 25, as the snap elements (14, 15) are on the outside surface of the belt, the containers may be attached/detached with the belt being on a user.

With respect to claims 21-22, the access slot is considered to be the opening of the container which allows access to any of the containers.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 7, 14-16, 18, 20-23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (US 5,230,452) in view of Angell (US 4,068,784).

To the degree that applicant's claims are understood with respect to "directional fasteners", Wagner only teaches a locking snap fastener between the container and the belt. As it is unclear if this type of fastener is applicant's "directional fastener", Angell is used to teach that it is well known in the art that "directional snap fasteners" are known

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in the art. See col. 2, lines 9-11, 34-39 and figure 6. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide directional snap fasteners as taught by Angell between the container and belt of Wagner so that the container cannot be detached accidentally, but requires a force in a particular direction by a deliberate action.

### ***Response to Arguments***

11. Applicant's arguments filed August 22, 2003 have been fully considered but they are not persuasive.

Applicant argues that Wagner fails to teach a fastener that requires a predetermined motion to disengage the first portion from the second portion. As set forth in the above, rejection, the snap fasteners of Wagner require a pulling apart motion to separate the two portions of the fasteners and it is this motion that is considered to be applicant's "predetermined motion". In addition, it is to be noted that applicant has not set forth any further detail to what comprises a "directional fastener" and what is meant by "predetermined motion".

Alternatively, the teaching of Angell has been used to modify the container a belt of Wagner to teach "directional snap fasteners" which require a "predetermined motion" to disengage.

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***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Clifton Jr., Bianchi et al., Kawahara et al. and Burke teach particular snap fasteners which require "predetermined motion" to disengage.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

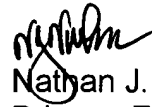
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.



Nathan J. Newhouse  
Primary Examiner  
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